

# **Brownfields Study Group Meeting**

## **November 22, 2002**

### **Meeting Notes**

#### **I. Attendees**

John Antaramian, City of Kenosha  
Margaret Brunette, DNR  
Margaret Earnest, TN & Assoc.  
Darsi Foss, DNR  
Erin Ganser, Vandewalle & Assoc.  
Mark Giesfeldt, DNR  
Maureen Hubeler, DNR  
Dan Kolberg, DNR  
Peggy Lescrenier, Dept. of Commerce  
Lee Madden, Fiore Companies, Inc.  
Kate Mawdsley, Dept. of Administration  
Jessica Milz, DNR  
Tom Mueller, TEMCO  
Lance Potter, DNR  
Michael Prager, DNR  
Al Rabin, Dept. of Commerce  
Joe Renville, DNR  
Andrew Savagian, DNR  
Jason Scott, Dept. of Commerce  
John Stibal, City of West Allis  
Joy Stieglitz, Vandewalle & Assoc.  
Mark Thimke, Foley & Lardner  
Sam Tobias, Fond du Lac County  
Rich Weber, MWH

#### **II. Welcome, Introduction, Agenda Repair**

#### **III. Current Financial Items**

Andrew Savagian went through the draft financial recommendations the Study Group put together through previous meetings and conference calls. After this meeting, Savagian noted the Study Group had initially agreed to finalize a document by December 12; after that date the document would be submitted to the state agencies, State Legislature and the governor

**A) Modify Negotiated Sale in Lieu of Bidding for Tax Delinquent Brownfields Properties**  
**Study Group approved**

**B) Assign Judgment of a Tax Deed Without Taking Title**  
**Study Group approved**

Tom Mueller: If this is approved, what's the soonest it could be used, early next fall?

Darsi Foss: yes

**C) Changes to VPLE statute, s.292.15**

**Study Group approved;** Savagian noted that, even though this item and the next one are non-fiscal recommendations, these are already in the DNR's budget request to DOA and the governor

**D) Local Government Liability Exemption for Certain Types of Solid Waste Sites**

**Study Group approved**

**E) Clarify Whether Environmental Insurance is an "Eligible" Cost for Remediation Grants & Loans**

**Study Group agreed to move to any discussion on statutory changes and other programmatic changes to 2003, but also requested that each agency and program clarify in their loan and grant materials how environmental insurance is factored into each program (e.g. as eligible cost, match or neither).**

Mueller: Isn't it already included in grants?

Foss: Is it?

Joy Stieglitz: I don't think it's clear

Maureen Hubeler: It's not listed as eligible

John Stibal: I thought it was

Jason Scott: It is an eligible match, but it hasn't been a big issue

Foss: Do you want it to be a straight up eligible cost?

Tom Mueller: Yes

John Stibal: Yes

Mark Thimke: I'm seeing the prices on insurance continue to rise, and they're getting very high; do we really want the overlay of expensive insurance on these grants?

Stibal: I think this is the tie that makes the bow for these brownfields transactions; in many instances it makes the deal come together

Scott: With the few instances we've had it, we've been ok with it

Sam Tobias: It's covered, but not clarified

Michael Prager: For the Greenspace grant, it probably wouldn't be eligible as a cost or as a match, but we could look at it in more detail

Thimke: I'm not disagreeing with the concept, but the next budget cycle is a new world; we're not going to be seeing any extra money, we're going to be seeing cuts in programs; and our task is to prioritize what's really important and to use the funds we have

Muller: Then maybe we should look at upping the match percentage

Thimke: I don't want someone to get a grant for \$250K so they can buy a policy; the se policies are getting more and more expensive so more money is spent on these policies versus traditional core funding

Stibal: Aren't we trying to work with new insurance aspects in the programs?

Foss: State agencies need to clarify what they're willing to do; I would recommend we move this issue to the items for discussion in 2003

Mueller: I think we need to maintain the flexibility; there are projects that, without the insurance, they just don't work, and based on that I think it ought to be funded

Thimke: I just want to caution that insurance is used now as the "automatic" versus the cheaper, statutory protection that's already out there

Stieglitz: Is it possible to have it be an eligible cost but only a percentage of the grant awarded; for example, have only 30% used for insurance or a match

**F) Strengthen and Stabilize Revenues for Environmental Fund**

**G) Maintain Brownfields Grants and Loans at Current Levels**

**H) Change the Brownfields Grants to a Continuing Appropriation**

**I) Ensure All Grants and Loans are Competitively Awarded**

**Study Group took items F-I together as an overall package, and approved all the recommendations; members did not support brownfields programs absorbing 100% of any shortfalls in the Environmental Fund; and the Study Group agreed to add comments to the recommendations that, if cuts need to be made, they be made across the board and be based on the percentage appropriated for brownfields in the entire budget**

Kate Mawdsley and Lace Potter briefed Study Group members on funding issues for the upcoming biennial budget

Potter: The budget the DNR submitted includes the funding levels the Study Group recommended for DNR grants and loans (SAG, Green Space, etc.); othis is based on the estimates for what we expect for revenues; the end is better than we had thought, but it's not balanced; and there are alot of unknowns, including the repeal of the sunset on the vehicle environmental fee, we just don't know, we have asked to continue it

Potter: So the bottom line is: no it's not balanced, but now it's out of DNR hands and goes to DOA and governor's office

Mawdsley: We are working with alot of uncertainly; we haven't heard yet from the new governor's transition team; we've given them numbers but we don't know how all this is being considered; we're looking at a \$1 million deficit at end of 2003; so my job is to say to the governor, here's what happening, and here are the options you can choose from

Mawdsley: This also does not build in any lapses or further deficits; and it's a good idea you're looking at priorities; you need to tell me what the Study Group wants to highlight; it helps me to tell them that the Study Group wants to concentrate in these areas vs. other areas

Prager: Can you give us a general idea of the \$1 million shortfall?

Lance: Total expenditures in DNR is around \$20 million; the other agencies is about \$8-9 million, so around the \$28-29 million mark; and we estimate total revenue generated around \$29 million

Foss: The last budget go round, for the gaming revenues, they had been part of the \$14 million Commerce had got in the past; if that's another revenue source would that help us? Potawatami will give gaming revenues to the Valley and that may help us balance the books

Mueller: So do we need to shave \$1 million off?

Thimke: Is there a way we can look at all of the money that's available throughout these various programs? And maybe our job as a group is to step back and say this is what's available, and based on success, this is what's gonna get cut? We need to make some hard choices

Mueller: You're right, but we gotta know what all the money in the pie is for

Savagian: And where do you do that in the process? When do we need to do this?

Mawdsley: The more information you have to me as soon as possible the better

Mueller: Someone's going to make that decision regardless, and either we have a say in this or we don't

Stieglitz: If you have to take \$1 million out, we should say take it from somewhere else; for myself, if I was to try and make a prioritization decision, if it has to come out of the programs, I don't know if we could do that arbitrarily; what would be helpful to me is to get an understanding about the prescription of these programs – are they oversubscribed? We need some place to start

Foss: What is the Study Group's job? To balance the Environmental Fund? Right now there is \$1 million short; what share of that goes to the debt service; do we give up \$5 million, \$500,000, or 20 million? Where do we stop?

Thimke: Everything is going to be on the table for chopping, even small programs; only way we as an advisory group have credibility is to say we've sat down, done a lot o work and soul searching, and here's what we've come up with; that sells more than just us saying we're so important we want to push all our programs through; from our side, all the programs are out there on the block for cutting; we're going to have to do that or someone's going to do that for us

Stibal: We're going to have to say something

Stieglitz: The onus is on us to report that; I think it would be unwise for us to chop any program in its entirety; if we have to do some chopping, it should be to chop budgets versus programs; I think it would be foolish for us to cut our feet off here; if we have to say 'cut', let's cut some funds in each of the programs versus cutting entire programs

Mueller: Is the \$28 million annual?

Mawdsley: Yes, annual

Mueller: That's a big difference

Prager: This discussion can get complicated; when we talk about the benefits, shared revenue versus municipal, etc., there are benefits overall that reach beyond the initial benefits to the economy, helping with the tax base, etc.

Thimke: We ought to task ourselves what gets the best bang for the buck; governor elect is saying I don't want to raise taxes

Mueller: So you've got a \$56 million biennial budget? Joy's got the right idea – since these programs are all important, and if everyone's going to take a hit, I'd hate to take all the \$1 million out of the 30% that goes to brownfields

Tobias: I like Joy's approach also; these are all important, so as a general statement or recommendation let's cut back a portion across the board

Foss: it seems there are two options the Study Group is considering; we could go through a long cost benefit analysis, which each staff would do and no one would agree; OR in the letter the Study Group sends in December, you can say if cuts need to be made we would rather have cuts made in funding versus cutting programs

Scot: If you do name specific programs they're going to take an even closer look than what you're suggesting

Mueller: I'd like to see, if it's possible, of that \$56 million, who's drawing done on that and what is it being used for? You can't make a budget cut decision on 30% of the budget

Prager: What's the time frame?

Mawdsley: December will be our big month where we're briefing and getting initial decisions; so December will be when the big decision-making process occurs

Stibal: We need to give them our advice today and we can meet again in 2003; we don't know enough today except to say don't eliminate programs, and if you have to cut, take a percentage across the board, a proportional amount

Tobias: I make a motion to accept Joy's approach; and if we get more information at a later date we'll

Prager: Is it appropriate to ask for a general summary?

Potter Mawdsley: That shouldn't be a problem, it's public record

**J) Provide Clear Statutory authority for the State to Receive Federal Brownfields Revolving Loan Funds, and Operate a Federally Funded Revolving Loan**  
Study Group approved

**K) Modify the Environmental Remediation TIF**

**\*Study Group agreed to forward the ER TIF recommendation, and agreed to take up the ER TIF issue again in January, and requested someone from DOR meet to talk with them about the lead and asbestos issues**

Prager: A request came from Rep. DuWayne Johnsrud's office; about the possibility of using the ER TIF for items like asbestos and lead abatement at properties where there is no environmental contamination impacting the air, soil or water at the property; DNR's interpretation of the ERTIF law is that environmental contamination must be present at a property where an ERTIF is being created

**\*Study Group agreed with the DNR's interpretation of this request**

Foss: I do believe we'll be asked about this issue again later; given the tight budget, people are looking for any way to assist with funding for this type of work; we may be asked again if we would support opening this up to sites that aren't classic brownfields

Prager: This has also come up in the SAG applications, where we have some sites without environmental pollution but just asbestos abatement; we've treated these as kind of a case by case basis

Stibal: If it does come up, I would recommend that we allow it – the local jurisdiction is paying for it, we're not competing for it

Mueller: Can you allow it?

Prager: We have done it, especially for asbestos abatement, but if you don't have the Groundwater contamination you can't do it

Foss: It appears no one is ready to decide today, and we're going to have this legislation in 2003

**L) Modify the Development Zone Tax Credits**

**Study Group approved, and also requested someone from Dept. of Commerce meet to talk with them about development tax zone credits**

**M) Streamline and Replenish the Land Recycling Loan Program (LRLP)**

**Study Group approved**

**N) Target Gaming Revenues for Menomonee Valley Brownfields Redevelopment Project**

**Study Group approved, and recommended that, if there are sufficient revenues, that the Gaming funds should not be part of the \$14 million in Commerce grants**

Foss: the Menomonee Valley Partners will be sending letters in support of this issue again, as they did in the last budget; the Study Group will get cc'ed on these letters

Mueller: one more time – are we clear that that is part of the \$14 million for Commerce or not?

Mawdsley: It goes into the overall environmental fund, and the \$14 million comes out of that fund

Mueller: Didn't it reduce the amount from \$14 million, and made it \$12.5 million? I just want to be able to know what's competitive vs. what's not; let's just maybe link those two

Stieglitz: Maybe we add a line that makes a direct link, that says whatever comes in for that particular fund gets used for the MVP partners, and I don't think you change the \$14 million

Stibal: Do we want to link it though?

Foss: We've been asked that already if that's been earmarked

Mueller: We've talked about this before related to the gaming compacts

Tobias: Isn't the concern that there's money out there that's not really out there, \$12.5 million vs. \$14 million? It's misleading

## **IV. Great Lakes Redevelopment Initiative Fund**

**\*Study Group agreed to ask Donna Ducharm and other representatives of the GL Redevelopment Initiative Fund to attend a meeting in 2003 and present (up to one hour)**

Joy Stieglitz briefed attendees on this Great Lakes fund

Stieglitz: This is a tri-state fund – WI, IN, IL – I sit on the board as a Wisconsin member; recently I sat in on the meeting of the WI-based board, and they asked if we could assist the fund managers with recommendations for potential investors as well as potential users; the group included Tim Casey, Lilith Fowler, and others; My comment to the folks who run this fund was it might be appropriate for 1-2 of them to present to the Study Group, or at a minimum the financial subcommittee, as to the purpose, applicability, investors, etc.

Stieglitz: It's run by three entities, the Delta Institute, the Chicagoland Redevelopment Institute, and Trkla, Pettigrew, Allen & Payne, Inc.; they'll insert themselves anywhere in the project, from up-front planning to the remedial end to the redevelopment end; they'll leverage 30% of the total financing costs, they'll also be equity partners in the projects as well; also, 50% targeted for supermarket construction for low-income, inner city communities

Stieglitz: This has the potential to be a tool of value; my sense is the people that run this are sharp, above board, they understand the market and how to find money, put deals together and find projects; and they're doing it right

Stibal: Yes, let's get them in here to talk to us

Mueller: I think it's an excellent idea; and there are other funds like this available; they're not the only fish in the sea

## **V. Federal Brownfields Update**

**\*Study Group agreed to request someone from HUD to come present to them about these grants**

Foss: Just an FYI that the federal brownfields money is out there, and the deadline is December 16<sup>th</sup>; the applications need to go to EPA Region V and the agency's Washington, D.C., headquarters; you also need a letter of support from the DNR; if by Dec. 1 you have a rough draft of your grant, or the basic information, theme, etc. as well as type of site, please let us know, so we know what we're supporting/endorsing; also, if you have clients that don't know this information, EPA is keeping a tally of who's contacted them, and Debra Orr in Region V Chicago is the contact for that; that way EPA has you on the list and you're not a surprise to them

Foss: Also, we sent links via email to everyone about the HUD and BEDI grants, which are tied to section 108 loan guarantees for brownfields; you may want to have a HUD person come talk to you about BEDI grants; those BEDI grants do not come out of your base allocation of non-entitlement funds

Stibal: Are you the person that writes that letter of support?

Foss: Yes

John Antaramian: The BEDI grants are now straight grants versus before?

Foss: I asked them about that; if you get a \$200,000 grant, it's in addition to what you've received before and does not count against your entitlement funds; you have to get a grant and a loan at the same time;

Stibal: Is it proportional?

Prager: You can get half loan and half grants; it'll be interesting to see how the other states made these work

## **VI. State Agency Updates**

### **Department of Commerce (Jason Scott)**

\$6.25 million is available for this round; oversubscribed – 35 applications, \$18.5 million requested; with what was available in funding last time, Commerce made 15 grants with 4 legislative set-asides, and looks like there will be similar numbers awarded this time; of the 35 applications, 19 are individual, 13 are municipalities; 20 are for projects in communities with 30,000 people or less (must award 7 grants with those numbers);

Stieglitz: 20 were small grants?

Scott: Yes, and they averaged \$400,000; large grants averaged \$700,000; we expect by mid-December we'll be done reviewing and making recommendations internally, and we expect awards to be made in late winter

### **DNR (Jessica Milz, Michael Prager, Maureen Hubeler)**

**Brownfields Site Assessment Grants (SAG):** DNR received 84 applications, 66 for small grants, 18 for large grants; oversubscribed – total funding requested is \$3.4 million, but only \$1.7 million is available; several communities applied for multiple grants

Prager: we also have to start thinking about the next round if we want to make changes to the rule; soon after the new year, we'll probably have to convene some group to consider potential changes to the rule; for example, the 70-30 split with award funding

Savagian: What is the time line on all of this?

Prager: We need to get going on that soon; given the budget, the next round of SAGs would be November 1; rule changes often take a year, so we'd need to start the process next month to make sure rules are in place before money becomes available



Stibal: You could tag this onto the end of a Study Group meeting in January and whoever wants to attend could

**Greenspace Grants:** Applications due January 17 for the first round; the rule should be taking effect in December; applications and forms are available on the web; we've been getting a fair number of phone calls about this grant

Tom: I think that one is going to be tremendous oversubscribed

Stibal: I agree

**SUDZ Grants:** \$125,000 of the funding from the last budget was not earmarked; Laurie Egge from the RR Program is the lead person; a fact sheet is coming out soon for how to apply and any other pertinent information; we think we'll probably make only one or two awards; we will not have an application form, probably do more of a letter of intent; all of this will be on the web along with a news release as well as being announced in the listserv

Stieglitz: Timeline?

Milz: Early March letter of intent will be due, announcements of award(s) in early April, so contract can be signed by early May; the funds can be used for investigation and cleanup; no match; intent is to deal with area-wide blight, which was the original idea forwarded by the 1998 Study Group

**Land Recycling Loan Program (LRLP):** DNR received 7 applications for \$13.2 million; have only \$9.8 million available; two projects will get partial funding, one of them will be a landfill (New Richmond); we're expecting four more applications on February 1 but don't have any funding to allocate for these projects; these projects will go on the funding list; any projects above them that don't close out by the end of the year makes the next projects on the list eligible for that money

Hubeler: Biennial finance plan submitted October 1, earmarked another \$20 million for the LRLP for 2003-05 budget; The DNR is also involved in litigation (contested case hearing) with Clintonville; had hearings in October, Administrative Law Judge will make a decision by Thanksgiving; if judge rules in favor of Clintonville, we'll have to take money away from other projects

Giesfeldt: What is the basis for the contested case hearing?

Hubeler: They asked for a variance on the ITA, we did not receive the ITA until after the December 31, 2001, deadline, they said they sent it Dec. 19 and didn't tell us until May of 2002

Antaramian: Are there any other changes being made?

Hubeler: Nothing in addition to the recommendations made by the Study Group

## **VII. January, 2003 – What's Next?**

**\*Study Group agrees to send a letter, with an attachment with recommendations, to the state agencies, the State Legislature, and the governor, by the end of 2002**

Antaramian: Do we have any knowledge as to who the co-chair of Joint Finance will be? If we don't know, we need to target someone in Finance to carry the ball for us; Dean Crawford in the Assembly, don't know if he'd take the lead on it; on the senate side haven't heard anything

Antaramian: Who does this get sent to? I'm assuming the leadership of both houses, but I'd also go a step farther, we need to determine who may be friendly on Joint Finance and pull them into our meetings, so they hear what we have to say and attach faces to names, since we'll be asking them for money and changes; it would be nice if it could be a co-chair

**Urban Waterways Initiative, formerly cont. sediments (Mark Thimke):** there is a movement afoot at EPA to go beyond the Superfund, Fox River legal issues and delve more into brownfields urban renewal; EPA has a pilot program underway to address this; they see urban waterways as keys to redevelopment, and we've seen that in Milwaukee

Thimke: The EPA pilot program is putting together some money to do this; the Milwaukee Mayor was interested but Chicago stepped in and took all the money for the pilot program to work on contaminated sediments; I think we need to get our act together to take advantage of available federal funding

Thimke: It seems like the next step for this group is to get a subgroup together to look at these moneys and take advantage of the opportunities; I'm willing to take some time to be the lead on this

Antaramian: Have we taken a good look at what we've gotten out of EPA; maybe if we did that it'd be easier to push our delegations to put heat on EPA to put some programs together; my guess is we've probably get very few dollars from EPA

Thimke: Probably very few, and my perception is we don't have our act together enough to ask for a program

Foss: Does the whole group want to take this on or a small group meet and take it to the larger Study Group?

Stieglitz: Subcommittee

Stibal: Yes, subcommittee

Thimke: I'll volunteer to be the chair of that group

**Institutional Controls (Foss):** There is a lot of interest in this; are people checking the IC's later on? Based on the level of interest from last meeting; we need to ID the universe of sites out there; I also got a call from the Sentinel Trust, and they're competing with others to offer private watchdog services; they are a quasi-private/public organization; fee-based, working with New Jersey, which has cap cops

Thimke: What are you seeing from the federal side? Is EPA looking at institutional controls and what do they consider to be appropriate to police it?

Foss: It appears more and more that EPA is dictating to the states that the states will be doing this

**Regional Implementation (Foss):** The Study Group wanted to talk to the regional management for how brownfields implementation is going regionally

Steiglitz: I don't know if comparing region to region is the entire way to do it

Tobias: Maybe one part of it

Antaramian: Depending on what region you're in, regions do treat things differently; there's no consistency; I think it's important to do a meeting with the different regions; maybe even for the Study Group to go the different regions and let them know why we have concerns

Stibal: Weren't we going to have a list of the inconsistencies?

Stieglitz: What I was talking about might be something different, the overall effectiveness of the state's brownfields initiative

Stibal.: I think we need to ID the issues, then bring them in to talk to us

Stieglitz: How are we being successful? What's on our agenda now and in the future? I don't feel like I have my arms around what's working and what isn't working, updates are helpful but it's not limited to just the grant-funded programs

Thimke: How about a friendly legislative request that this be done? So each agency assess the effectiveness by working with the Study Group to produce something

Prager: Joy's idea makes a lot of sense, but we've been struggling with how to comprehensively assess all of this together; so how do we go about doing this?

Stieglitz: Probably need to figure out what we need to know first before we go out and get the information

**Smarth Growth (Foss):** We wanted to put this on the agenda for next time, to tie what our communities are doing with smart growth together with the state's work on brownfields; other states may be doing some work we may be missing out on

## **VIII. Other**

**ASCE Report Card:** Giesfeldt and Foss explained the issue to attendees; the ASCE did a report card on EPA's programs, and each of ASCE's state programs were encouraged to do a report card on a variety of state programs, so the Wisconsin chapter decided to do that; they decided to focus on brownfields, gave us a C+, a relatively high grade, based on need; DNR's RR Program will be responding via a letter

Thimke: Should this committee be writing to them, and at a minimum mention they should've asked us about this a little bit?

Antaramian: We need to send a strongly worded letter to this organization

**\*Study Group agreed to respond via a letter and request a meeting with the authors/coordinators**

**ADJOURN**